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U.S. BANKRUPTCY COURT  
NORTHERN DIST. OF CA.  
SAN FRANCISCO, CA.

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
(San Francisco Division)

In re	)	Case No. 01-30923 DM
	)	
PACIFIC GAS AND ELECTRIC	)	CHAPTER 11
COMPANY, a California corporation,	)	
	)	
Debtor.	)	<b>ORDER SUPPLEMENTING THE AUGUST 23,</b>
	)	<b>2002 ORDER RE: DISCOVERY PROTOCOL</b>
	)	<b>AND SCHEDULING</b>
Federal I.D. No. 94-0742640	)	
	)	Date: September 25, 2002
	)	Time: 1:30 p.m.
	)	Place: 235 Pine Street, 22 <sup>nd</sup> Floor
	)	San Francisco, California
	)	
	)	
	)	

At the date and time set forth above, the United States Bankruptcy Court for the Northern District of California (the "Court") held a hearing regarding the Motion of the City of Palo Alto to Compel Implementation of Equitable Procedures Regarding Data Room, or, in the Alternative, for Relief from Discovery Order Deadlines (the "Motion") submitted by the City of Palo Alto ("Palo Alto"), and joined by the Northern California Power Agency ("NCPA"), City and County of San Francisco ("CCSF"), and the People of the State of California ex. rel. Department of Toxic Substances Control, et al. ("State Entities") (collectively, Palo Alto, NCPA, CCSF, and State

1 Entities, as "Objectors"). Appearances were as noted in the record.

2 The Court having considered the Motion, any opposition or other response  
3 submitted with respect thereto, the record in this case, any admissible evidence and argument  
4 presented to the Court, and good cause appearing therefor, **IT IS HEREBY ORDERED,**  
5 **ADJUDGED, AND DECREED** that the Motion is granted as follows:

6 1. This order ("Supplemental Discovery Order") amends and supplements that  
7 order regarding discovery and scheduling ("Discovery Order") entered by this Court on August 23,  
8 2002, and in the event of any conflict between the Supplemental Discovery Order and the  
9 Discovery Order, the terms of this Supplemental Discovery Order shall prevail.

10 2. By no later than the end of the business day on September 27, 2002, PG&E  
11 shall make available the first installment of its privilege log to Parties (as defined in the Discovery  
12 Order) who so request, within two business days of such request. By no later than the end of the  
13 business day on October 4, 2002, the California Public Utilities Commission ("Commission") shall  
14 make available the first installment of its privilege log to Parties who so request, within two  
15 business days of such request. Following these initial installments, both PG&E and the  
16 Commission shall update their respective privilege logs each week. Once a Party requests a copy  
17 of a privilege log from either PG&E or the Commission, weekly updates shall be provided to such  
18 Party each successive Friday without further request. PG&E and the Commission shall use best  
19 efforts to make sure that their respective privilege logs are completed and updated as soon as  
20 reasonably practical, with due recognition to the contemplated schedule for the confirmation trial.

21 3. By no later than end of business day on September 27, 2002, PG&E shall  
22 provide the Commission, and Objectors with objective database field information together with  
23 whatever database information it has in its own database, if any, which links to images or email  
24 text of documents that exist in hard copy form in the Data Room ("Database Index") (provided,  
25 however, that the links may be provided no later than October 11, 2002) via CDROM or electronic  
26 mail, as may be agreed, consistent with what was described in the September 24, 2002 letter from  
27 Mr. Steven Sherr, counsel for PG&E, to this Court ("9/24/02 PG&E Letter"). Specifically, such  
28 Database Index shall include the following data fields: bates number range, author(s),

addressee(s), copyee(s), date, subject matter or "re" line if reproduced verbatim from the document, and volume number corresponding to the files in the data room ("Data Room"). PG&E shall update the Database Index each successive Friday, and make the Database Index available to those Parties who so request within two (2) business days of such request. Once a Party requests the Database Index from PG&E, weekly updates shall be provided to such Party each successive Friday without further request. PG&E shall use best efforts to make sure that the Database Index is completed and updated as soon as reasonably practicable, with due recognition to the contemplated schedule for the confirmation trial. Consistent with the 9/24/02 PG&E Letter, PG&E shall provide the Database Index and the above-referenced link information without any warranty as to its accuracy or utility. To the extent PG&E corrects errors in the Database Index, it shall make such corrections available to Parties otherwise receiving updates to the Database Index on the next date updates are provided. To the extent the Commission has or later develops its own Database Index (or similar information), it shall have the same obligations to PG&E, the Committee, and Objectors as PG&E has to the Commission, the Committee, and Objectors under this paragraph three (3).

4. The Parties may each serve on PG&E fifteen (15) interrogatories, pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, for purposes of document identification ("Document Identification Requests") only. In serving the Document Identification Requests, the Parties shall make a good faith effort to avoid excessively general descriptions of the requested documents that would be unreasonably burdensome for PG&E to identify, but the Parties may request discrete and easily identifiable categories of documents. These Document Identification Requests are in addition to the interrogatories authorized under the Discovery Order.

5. The Parties may each serve on the Commission a total of fifteen (15) interrogatories, pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, for purposes of document identification only. In serving the Document Identification Requests, the Parties shall make a good faith effort to avoid excessively general descriptions of the requested documents that would be unreasonably burdensome for the Commission to identify, but the Parties may request discrete and easily identifiable categories of documents. The Commission shall have the same obligations to the Parties under this paragraph five (5), as PG&E has to the Parties as set forth in

1 paragraphs six (6) and seven (7) below.

2 6. PG&E shall respond in writing within fifteen (15) days after service of a  
3 Document Identification Request in a manner fully consistent with Rule 33(d) of the Federal Rules  
4 of Civil Procedure. Each such response shall be served on the Parties. PG&E shall make good  
5 faith and diligent efforts to be responsive to the Document Identification Requests.

6 7. To the extent that PG&E delivers additional documents to the Data Room  
7 after PG&E's initial response to any Document Identification Request, PG&E shall update that  
8 response with respect to those documents referenced in the weekly updates to the Database Index  
9 described in paragraph three (3) herein no later than the Friday following the delivery of each such  
10 update.

11 8. Any documents added to the Data Room by PG&E in response to any  
12 document request propounded by any Objector after September 25, 2002, or produced voluntarily  
13 by PG&E, shall be identified and segregated by PG&E as being documents in response to a  
14 particular document request, or produced voluntarily, as the case may be. Any documents  
15 produced by the Commission, the Committee or any Objector after September 25, 2002, or  
16 produced voluntarily, shall be identified and segregated by the producing party as being documents  
17 in response to a particular document request, or produced voluntarily, as the case may be.

18 9. If after September 25, 2002, the Commission, the Committee, or any  
19 Objector requests documents pursuant to the Discovery Order that have not been produced in the  
20 Data Room as of September 25, 2002, PG&E must either produce said documents directly to the  
21 Commission, the Committee, or any Objector, as the case may be, or, if PG&E chooses to instead  
22 make those documents available in the Data Room, PG&E must indicate where said documents are  
23 located in the Data Room in a manner consistent with Rule 33(d) of the Federal Rules of Civil  
24 Procedure.

25 10. This Order incorporates by reference and orders, adjudges and decrees as  
26 such all agreements made by PG&E in the 9/24/02 PG&E Letter, although such agreements by  
27 PG&E do not supersede the effect of any order, judgment, or decree herein. The Court expressly  
28 reserves the issue of reasonable cost allocation among the Parties for the Database Index raised in

1 the 9/24/02 PG&E Letter.

2 11. At a discovery status conference on October 2, 2002, at 1:30 p.m., PG&E,  
3 the Commission, and the Objectors shall report on the status of discovery efforts and progress as  
4 directed under this Supplemental Order and otherwise.

5 12. In all other respects the Motion is denied.

6  
7 DATED: October 3, 2002

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9  
10 **DENNIS MONTALI**  
11 **HONORABLE DENNIS MONTALI**  
12 **UNITED STATES BANKRUPTCY JUDGE**

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